

ESTTA Tracking number: **ESTTA575174**

Filing date: **12/06/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200684
Party	Defendant Jeff Hill
Correspondence Address	CHAD D GREESON ARCHER NORRIS 2033 NORTH MAIN STREET, SUITE 800 WALNUT CREEK, CA 94596 UNITED STATES kgillette@archernorris.com, cgreeson@archernorris.com, ebarham@archernorris.com, tpico@archernorris.com
Submission	Other Motions/Papers
Filer's Name	chad d. greeson
Filer's e-mail	cgreeson@archernorris.com, ebarham@archernorris.com
Signature	/chad d. greeson/
Date	12/06/2013
Attachments	jhill dismissal.pdf(733049 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application No. 85/177,865
Filed: November 16, 2010
Published: March 15, 2011, in the *Official Gazette*
For: **DUCK BLIND WINERY**

DUCKHORN WINE COMPANY,

Opposer,

v.

JEFF HILL,

Applicant.

Opposition No. 91200684

**VOLUNTARY DISMISSAL OF
OPPOSITION WITH PREJUDICE AND
ABANDONMENT OF APPLICATION
WITH PREJUDICE PURSUANT TO
WRITTEN STIPULATION**

The parties to the above-referenced *inter-partes* proceeding hereby advise the Trademark Trial and Appeals Board of their settlement of this dispute pursuant to TBMP § 605.03. *See* Notice of Entry of Final Judgment, attached as Exhibit A, and Consent Decree and Order of Permanent Injunction, attached as Exhibit B.

Opposer, Duckhorn Wine Company, and Applicant, Jeff Hill, hereby stipulate to the dismissal of the above-referenced Opposition with prejudice. Opposer voluntarily withdraws the Opposition with prejudice and Applicant consents to this withdrawal. 37 C.F.R. § 2.106(c); TBMP §§ 601.01, 601.02.

Opposer and Applicant further stipulate to the abandonment of the Duck Blind Winery Trademark, Serial No. 85/177,865, with prejudice. Applicant voluntarily withdraws the application, and Opposer consents to this abandonment without entry of judgment against the Applicant. 37 C.F.R. § 2.135; TBMP §§ 602.01, 602.02(a).

The parties hereby stipulate to the foregoing by and through their attorneys of record, pursuant to 37 C.F.R. §§ 2.106(c), 2.114(c), 2.68, 2.135; TBMP §§ 601.01, 601.02, 602.01,

602.02(a).

SO STIPULATED AND AGREED.

DATED: December 6, 2013

By: /s/ Ryan Bricker
Ryan Bricker
KILPATRICK TOWNSEND AND STOCKTON LLP
2 Embarcadero Ctr., 8th Fl.
San Francisco, CA 94111
(415) 576-0200
Attorneys for Opposer
DUCKHORN WINE COMPANY

By: /s/ Chad D. Greeson
Chad D. Greeson
ARCHER NORRIS
2033 N. Main St., Ste. 800
Walnut Creek, CA 94596
(925) 930-6600
Attorneys for Applicant
JEFF HILL

IT IS SO ORDERED.

DATE: _____

Trademark Trial and Appeals Board

EXHIBIT “A”

1 Henry C. Bunsow (SBN 60707)
 hbunsow@bdiplaw.com
 2 Robin Curtis (SBN 271702)
 rcurtis@bdiplaw.com
 3 Jeffrey D. Chen (SBN 267837)
 jchen@bdiplaw.com
 4 Bunsow, De Mory, Smith & Allison LLP
 351 California Street, Suite 200
 5 San Francisco, CA 94104
 Tel: (415) 426-4747
 6 Fax: (415) 426-4744

7 Attorneys for Plaintiff
 DUCKHORN WINE COMPANY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF NAPA

10 DUCKHORN WINE COMPANY,

11 Plaintiff,

12 vs.

13 HILL WINE COMPANY, LLC; JEFF
 14 HILL, an individual; REBECCA HILL, an
 individual; and DOES 1-50,

15 Defendants.
 16

Case No. 26-60729

PLAINTIFF DUCKHORN WINE
 COMPANY'S NOTICE OF ENTRY OF
 FINAL JUDGMENT IN RELATED CASE

ENDORSED

NOV 20 2013

Clerk of the Napa Superior Court

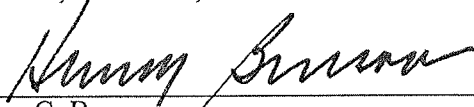
By: J. OLIVER
 Deputy

BY FAX

1 Plaintiff DUCKHORN WINE COMPANY ("Duckhorn") respectfully notifies the Court
2 that on November 19, 2013, a Consent Decree and Order of Permanent Injunction was entered in
3 the related case, *Duckhorn Wine Company v. Hill Wine Company, LLC*, Case No. 3:13-cv-
4 00995-LB (N.D. Cal.) ("Federal Court Action"). Except as provided in the Consent Decree and
5 Order of Permanent Injunction, all claims alleged in the Complaint in the Federal Court Action
6 were dismissed with prejudice. Attached hereto as Exhibit 1 is a true and correct copy of the
7 Consent Decree and Order of Permanent Injunction.

8
9
10 Dated: November 19, 2013

BUNSOW, DE MORY, SMITH & ALLISON LLP

11 
12 Henry C. Bunsow
13 Robin Curtis
14 Jeffrey D. Chen

15 Attorneys for Plaintiff
16 DUCK HORN WINE COMPANY
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

Henry C. Bunsow (SBN 60707)
hbunsow@bdiplaw.com
Brian A.E. Smith (State Bar No. 188147)
bsmith@bdiplaw.com
Robin Curtis (SBN 271702)
rcurtis@bdiplaw.com
BUNSOW, DE MORY, SMITH & ALLISON LLP
55 Francisco Street, Suite 600
San Francisco, CA 94133
Tel: (415) 426-4747
Fax: (415) 426-4744

Jeffrey D. Chen (SBN 267837)
jchen@bdiplaw.com
BUNSOW, DE MORY, SMITH & ALLISON LLP
600 Allerton Street, Suite 101
Redwood City, CA 94063
Tel: (650) 318-6772
Fax: (650) 684-1294

Attorneys for Plaintiff
DUCKHORN WINE COMPANY

Keith R. Gillette
kgillette@archernorris.com
Chad D. Greeson
cgreeson@archernorris.com
ARCHER NORRIS
2033 North Main Street, Suite 800
Walnut Creek, CA 94596
Tel: (925) 930-6600
Fax: (925) 930-6620

Attorneys for Defendants
Hill Wine Company, LLC; Jeff Hill and
Rebecca Hill

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DUCKHORN WINE COMPANY, a
California Corporation,

Plaintiff,

v.

HILL WINE COMPANY, LLC; JEFF
HILL, an individual; REBECCA HILL, an
individual; and DOES 1-50,

Defendants.

Case No. 3:13-cv-00995-LB

**[PROPOSED] CONSENT DECREE AND
ORDER OF PERMANENT INJUNCTION**

**[PROPOSED] CONSENT DECREE AND
ORDER OF PERMANENT INJUNCTION**

CASE NO. 3:13-CV-00995-LB

1 The Court, having read and considered the Joint Stipulation for Entry of Consent Decree
2 that has been executed on behalf of Plaintiff Duckhorn Wine Company ("Plaintiff"), on the one
3 hand, and Defendants Hill Wine Company, Jeff Hill and Rebecca Hill (collectively
4 "Defendants"), on the other hand, and good cause appearing therefore hereby:

5 ORDERS that this Consent Decree shall be and is hereby entered as follows:

6 1) This Court has jurisdiction over the parties to this action and over the subject
7 matter hereof pursuant to 28 U.S.C. §§ 1331 and 1338, and 28 U.S.C. § 1367. Service of process
8 was properly made against Defendants.

9 2) Plaintiff Duckhorn Wine Company is the owner of the trademarks and related
10 intellectual property rights in the trademarks which are attached hereto as Exhibit A.

11 4) Defendants, including agents, servants, employees, representatives, successor and
12 assigns, and all persons, firms, corporations or other entities in active concert or participation with
13 Defendants who receive actual notice of the Injunction are hereby restrained and permanently
14 enjoined from importing, manufacturing, distributing, advertising, selling, or offering for sale,
15 wine or other wine related goods that:

16 a. use the marks "Duck Call", "Duck Blind" or any other mark prominently featuring
17 the word "Duck" or prominently featuring any duck image or caricature. This
18 includes an explicit prohibition against using the names and marks "Duckhorn",
19 "Decoy", "Goldeneye", "Paraduxx", "Migration", "King Eider" and "Canvasback."

20 b. Nothing herein is intended to preclude Defendants from using images of non-duck
21 waterfowl.

22 5) Each side shall bear its own fees and costs of suit.

23 6) Except as provided herein, all claims alleged in the Complaint are dismissed with
24 prejudice.

25 7) This Injunction shall be deemed to have been served upon Defendant at the time of
26 its execution by the Court.


27 8) The Court finds there is no just reason for delay in entering this Injunction and,
28 pursuant to Rule 54(a) of the Federal Rules of Civil Procedure, the Court directs immediate entry

1 of this Injunction against Defendant.

2 9) The Court shall retain jurisdiction of this action to entertain such further
3 proceedings and to enter such further orders as may be necessary or appropriate to implement and
4 enforce the provisions of this Injunction.

5 10) This Court shall retain jurisdiction over Defendant for the purpose of making
6 further orders necessary or proper for the construction or modification of this consent decree and
7 judgment; the enforcement hereof; the punishment of any violations hereof; and for the possible
8 entry of a further Judgment Pursuant to Stipulation in this action.

9 Dated: November ¹³, 2013

10 
11 _____
12 Laurel Beeler
United States Magistrate Judge

13 PRESENTED BY:

14 **BUNSOW, DE MORY, SMITH & ALLISON LLP**

15 /s/ Henry C. Bunsow
16 Henry C. Bunsow, Esq.

17 *Attorneys for Plaintiff*
18 Duckhorn Wine Company

19 **ARCHER NORRIS, APLC**

20 /s/ Keith R. Gillette
21 Keith R. Gillette, Esq.

22 *Attorneys for Defendants*
23 Hill Wine Company, LLC, Jeff Hill, and Rebecca Hill




24 **ATTESTATION PURSUANT TO GENERAL ORDER 45**

25 Pursuant to General Order No. 45, I hereby attest that I have obtained concurrence of the
26 above noted signatories as indicated by a "conformed" signature (/s/) within this e-filed
27 document.

28 /s/ Henry C. Bunsow
Henry C. Bunsow, Esq.

EXHIBIT A

**Exhibit A to Consent Decree
(Duckhorn Trademarks)**

Mark	Country	Serial No	Filing Date	Reg. No.	Reg. Date
CANVASBACK	United States of America	78153381	Aug 12, 2002	2972765	Jul 19, 2005
DECOY	United States of America	74069836	Jun 18, 1990	1647605	Jun 11, 1991
DECOY (and design) 	United States of America	75509012	Jun 25, 1998	2313395	Feb 1, 2000
DUCKHORN	United States of America	76124853	Sep 8, 2000	2689807	Feb 25, 2003
DUCKHORN VINEYARDS	United States of America	73494138	Aug 10, 1984	1380695	Jan 28, 1986
DUCKHORN VINEYARDS	United States of America	75575028	Oct 22, 1998	2309011	Jan 18, 2000
DUCKHORN VINEYARDS	US-California	73319	Jun 1, 1984	73319	Jun 1, 1984
GOLDENEYE	United States of America	75310088	Jun 16, 1997	2239619	Apr 13, 1999
GOLDENEYE 	United States of America	77622376	Nov 26, 2008	3643220	Jun 23, 2009
KING EIDER	United States of America	85927434	May 9, 2013		
MIGRATION	United States of America	75223724	Jan 10, 1997	2116362	Nov 25, 1997
PARADUXX	United States of America	75147671	Aug 9, 1996	2137930	Feb 17, 1998
PARADUXX (and design) 	United States of America	75576286	Oct 27, 1998	2344817	Apr 25, 2000

1 CERTIFICATE OF SERVICE

2 I am employed in the County of San Francisco, State of California and am employed in the
3 office of a member of the bar of this Court at whose direction the service was made. I am over the
4 age of 18 and not a party to the within action. My business address is 55 Francisco Street, Suite 600,
5 San Francisco, CA 94133.

6 On November 20, 2013, I served the within document on the following interested parties:

7 Keith R. Gillette
kgillette@archernorris.com
8 Chad D. Greeson
cgreeson@archernorris.com
9 ARCHER NORRIS
2033 North Main Street, Suite 800
10 Walnut Creek, CA 94596
Tel: 925.930.6600
11 Fax: 925.930.6620

12 *Attorneys for Defendants*
Hill Wine Company, LLC; Jeff Hill and Rebecca Hill

13 by placing a true copy thereof in a sealed envelope(s) addressed as stated below and causing such
14 envelope(s) to be delivered as follows:

15 ☐ (BY HAND DELIVERY) I delivered said envelope(s) to a courier to be delivered to the
16 persons as addressed above.

17 ☐ (BY FACSIMILE TRANSMISSION) from the facsimile machine at the offices of Bunsow,
De Mory, Smith & Allison LLP, facsimile number (415) 426-4744, to the attention of the
18 following interested parties in this action, at addressee's facsimile no. as set forth above.

19 ☐ (BY MAIL) I caused a copy of such documents to be placed in a sealed envelope with postage
20 fully prepaid and addressed to the persons at the addresses as shown above. I am readily
familiar with the business practice of Bunsow De Mory Smith & Allison LLP for collection
21 and processing of correspondence for mailing with the United States Postal Service, and the
correspondence would be deposited with United States Postal Service that same day in the
ordinary course of business.

22 ☒ (BY ELECTRONIC MAIL) I caused such documents to be sent to the persons at the email
23 addressed listed above. I did not receive, within a reasonable time after the transmission, any
electronic message or other indication that the transmission was unsuccessful.
24 I declare under penalty of perjury that the foregoing is true and correct.

25 Executed on November 20, 2013, at San Francisco, California.

26
27 /s/ Jessika Sprague

28 Jessika Sprague

EXHIBIT “B”

Henry C. Bunsow (SBN 60707)
hbunsow@bdiplaw.com
Brian A.E. Smith (State Bar No. 188147)
bsmith@bdiplaw.com
Robin Curtis (SBN 271702)
rcurtis@bdiplaw.com
BUNSOW, DE MORY, SMITH & ALLISON LLP
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San Francisco, CA 94133
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Fax: (415) 426-4744

Jeffrey D. Chen (SBN 267837)
jchen@bdiplaw.com
BUNSOW, DE MORY, SMITH & ALLISON LLP
600 Allerton Street, Suite 101
Redwood City, CA 94063
Tel: (650) 318-6772
Fax: (650) 684-1294

Attorneys for Plaintiff
DUCKHORN WINE COMPANY

Keith R. Gillette
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Chad D. Greeson
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Tel: (925) 930-6600
Fax: (925) 930-6620

Attorneys for Defendants
Hill Wine Company, LLC; Jeff Hill and
Rebecca Hill

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DUCKHORN WINE COMPANY, a
California Corporation,

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v.

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Defendants.

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10 intellectual property rights in the trademarks which are attached hereto as Exhibit A.

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12 assigns, and all persons, firms, corporations or other entities in active concert or participation with
13 Defendants who receive actual notice of the Injunction are hereby restrained and permanently
14 enjoined from importing, manufacturing, distributing, advertising, selling, or offering for sale,
15 wine or other wine related goods that:

16 a. use the marks "Duck Call", "Duck Blind" or any other mark prominently featuring
17 the word "Duck" or prominently featuring any duck image or caricature. This
18 includes an explicit prohibition against using the names and marks "Duckhorn",
19 "Decoy", "Goldeneye", "Paraduxx", "Migration", "King Eider" and "Canvasback."

20 b. Nothing herein is intended to preclude Defendants from using images of non-duck
21 waterfowl.

22 5) Each side shall bear its own fees and costs of suit.

23 6) Except as provided herein, all claims alleged in the Complaint are dismissed with
24 prejudice.

25 7) This Injunction shall be deemed to have been served upon Defendant at the time of
26 its execution by the Court.

27 8) The Court finds there is no just reason for delay in entering this Injunction and,
28 pursuant to Rule 54(a) of the Federal Rules of Civil Procedure, the Court directs immediate entry

of this Injunction against Defendant.

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10) This Court shall retain jurisdiction over Defendant for the purpose of making further orders necessary or proper for the construction or modification of this consent decree and judgment; the enforcement hereof; the punishment of any violations hereof; and for the possible entry of a further Judgment Pursuant to Stipulation in this action.

Dated: November ¹³, 2013



Laurel Beeler
United States Magistrate Judge

PRESENTED BY:

BUNSOW, DE MORY, SMITH & ALLISON LLP

/s/ Henry C. Bunsow
Henry C. Bunsow, Esq.

Attorneys for Plaintiff
Duckhorn Wine Company

ARCHER NORRIS, APLC

/s/ Keith R. Gillette
Keith R. Gillette, Esq.

Attorneys for Defendants
Hill Wine Company, LLC, Jeff Hill, and Rebecca Hill




ATTESTATION PURSUANT TO GENERAL ORDER 45

Pursuant to General Order No. 45, I hereby attest that I have obtained concurrence of the above noted signatories as indicated by a "conformed" signature (/s/) within this e-filed document.

/s/ Henry C. Bunsow
Henry C. Bunsow, Esq.

EXHIBIT A

**Exhibit A to Consent Decree
(Duckhorn Trademarks)**

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MIGRATION	United States of America	75223724	Jan 10, 1997	2116362	Nov 25, 1997
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PARADUXX (and design) 	United States of America	75576286	Oct 27, 1998	2344817	Apr 25, 2000

H0258006/1699352-1

1 **Name of Action: Duckhorn Wine Company v. Jeff Hill, Attorney Docket No. 803943-89163**
2 **In re Application No. 85/177,865, filed November 16, 2010, Published: March 15, 2011 in**
3 **the Official Gazette**

4 **CERTIFICATE OF MAILING**

5 I, Elizabeth Barham, declare:

6 I am a citizen of the United States and employed in Contra Costa County,
7 California. I am over the age of eighteen years and not a party to the within-entitled
8 action. My business address is 2033 North Main Street, Suite 800, Walnut Creek,
California 94596-3759. On December 6, 2013, I served a copy of the within
document(s):

9 **VOLUNTARY DISMISSAL OF OPPOSITION WITH PREJUDICE**
10 **AND ABANDONMENT OF APPLICATION WITH PREJUDICE**
11 **PURSUANT TO WRITTEN STIPULATION**

12 ☒ by placing the document(s) listed above in a sealed envelope with
13 postage thereon fully prepaid, in the United States mail at Walnut
Creek, California addressed as set forth below.

14 I am readily familiar with the firm's practice of collection and processing
15 correspondence for mailing. Under that practice it would be deposited with the
16 U.S. Postal Service on that same day with postage thereon fully prepaid in the
ordinary course of business. I am aware that on motion of the party served, service
is presumed invalid if postal cancellation date or postage meter date is more than
one day after date of deposit for mailing in affidavit.

17 ***Service List***

18 Henry C. Bunsow, Esq. hbusow@bdiplaw.com 19 Robin K. Curtis, Esq. rcurtis@bdiplaw.com 20 Bunsow, De Mory, Smith & Allison LLC 351 California Street, Suite 200 San Francisco, CA 94104 (415) 426-4747 Fax: (415) 426-4744 Attorneys for Plaintiff	Jeffrey D. Chen jchen@bdiplaw.com Bunsow, De Mory, Smith & Allison LLC 600 Allerton Street, Suite 101 Redwood City, CA 94063 (650) 318-6772 Fax: (650) 684-1294 Attorneys for Plaintiff
---	--

23
24 I declare under penalty of perjury that the foregoing is true and correct.
25 Executed on December 6, 2013, at Walnut Creek, California.

26 

27 Elizabeth S. Barham
28